IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 4604 of 2002

Between:

Renduchintala Bhaskara Rama Rao S/o. Seeta Ramaiah
presently R/o at Lalitha Nagar, Plot No. 142, Hyderabad.

..... PETITIONER

AND

1 The Commissioner of Endowments Endowments Dept.,
Tilak Road, Hyderabad.
2 The Executive Officer, Sri Trikoteswara Swamy Temple,
Kotappa Konda (Village), Narasaraopet Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to to issue a Writ of Mandamus or any other appropriate Writ, Order and Direction, declaring the action of the respondents in not allowing the petitioner and other devotees of Lord Shiva to enter into the Garbhagudi of Sri Trikoteshwara Swamy Temple, Kotappakonda and perform Abhishekam with their own hands, as arbitrary, illegal and contrary to the provisions of A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstance of the case.

Counsel for the Petitioner:MR.AMBADIPUDI SATYANARAYANA

Counsel for the Respodnent No.1: G.P. for Endowments

Counsel for the Respondent No.2: MR.METTACHENDRA SEKHAR RAO

The Court made the following Oral Order: (per Sri Devinder Gupta, CJ)

Petitioner is aggrieved by the action of the respondents in not permitting him to enter Garbhagudi and to perform Abhishekam to holy Lingam of Lord Shiva in Trikoteswara Swamy Temple at Kotappakonda, Guntur District.

Petitioner's grievance is that he is a staunch devotee of Lord Shiva and there is a custom in the temple to permit disciples of Trikoteswara Swamy to enter the Garbhagudi and perform Abhishekam with their own hands. Petitioner also used to perform Abhishekam as per the tradition. But, in recent past, the temple authorities are not permitting the petitioner. Petitioner states that despite requests, his demand was not acceded to. He has given reference to Proceedings dated 12.10.2001, by which permission was given to one T.V.D. Nageswara Rao to perform Abhishekam to Lord Shiva as per traditions and customs. Thus, the action of the respondents in not permitting the petitioner is being treated by petitioner as discrimination to him in the matter of performing his religious duties.

Affidavit in reply has been filed by Sri Ramakrishna Kumar, Deputy Commissioner, Endowments Department. It is stated that in this famous temple previously there was no rush of pilgrims and all were allowed to enter Garbhalayam. But, only after performance of Mahakumbhabhishekam and Punah Pratishta on 10.2.1999, as per the advice of H.H. Sri Jagadgur of Sringeri, no persons other than Archakas, Vedaparayandars and Abhisheka Brahmins and Peethadhipatis who visit from

various places were allowed to enter into Garbhalayam. It is stated that merely because some persons were allowed inside the temple when there is no rush, that cannot become a custom by itself as such persons or devotees were not being allowed even during peak days of Mahasivaratri. It is denied that there is any custom under which the petitioner is entitled to perform Abhishekam. Further, granting of permission to Sri T.VD. Nageswara Rao was not disputed and it has been stated that his representation was duly considered on consideration of the report of Agama Sastra Pandit of Sri Durgamalleswara Swamy Temple, Vijayawada. But, petitioner's claim for performing Abhishekam as of right is being seriously disputed by the respondents.

In such like matters, unless, a clear enforceable legal right is established, direction prayed for cannot be granted merely on the basis that some permission was granted to some one else. The only course open to the petitioner would be to make a representation to the respondents to consider his case as a special case for performing Abhishekam on a special day and if such a representation is made, it will be for the respondents to take appropriate decision on such request. Petitioner cannot as a matter of fact, claim such right to enter Garbahalaya and to perform Abhihekam with his own hands when it is not permitted as per the advice given by the Head of a Religious Math. There is no enforceable legal right vested in the petitioner and there is no discrimination. We find no substance in the writ petition.

We, accordingly, proceed to dismiss the writ petition, but, with liberty reserved as aforementioned. No costs.

_____ DEVINDER GUPTA, CJ

Date: 6th December, 2004

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M. NARAYANA REDDY, J

Pnb

To

1 The Commissioner of Endowments Endowments Dept.,
Tilak Road, Hyderabad.
2 The Executive Officer, Sri Trikoteswara Swamy Temple,
Kotappa Konda (Village), Narasaraopet Mandal, Guntur District.

3 Two C.Cs. to the Government Pleader for Endowments, High Court

Buildings, Hyderabad. (OUT)

4 Two C.D. copies